

2013 DRAFTING REQUEST

Bill

Received: **4/25/2013** Received By: **phurley**
Wanted: **As time permits** Same as LRB:
For: **Samantha Kerkman (608) 266-2530** By/Representing: **Alison**
May Contact: Drafter: **phurley**
Subject: **Criminal Law - crimes agnst kids** Addl. Drafters: **tdodge**
Health - abortion/maternal/child
Extra Copies:

Submit via email: **YES**
Requester's email: **Rep.Kerkman@legis.wisconsin.gov**
Carbon copy (CC) to: **tamara.dodge@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Cosleeping while intoxicated

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 5/7/2013	evinz 5/14/2013	jmurphy 5/14/2013	_____			
/P1	tdodge 7/10/2013			_____	sbasford 5/14/2013		State S&L Crime
/P2	tdodge	evinz	rschluet	_____	sbasford		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	8/21/2013	7/12/2013	7/12/2013	_____	7/12/2013		S&L Crime
/1		jdye 8/22/2013	rschluet 8/22/2013	_____	sbasford 8/22/2013	mbarman 10/16/2013	State S&L Crime

FE Sent For:

<END>

At
Intro.

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/P1	tdodge 7/10/2013	1/22 jld	8/13	_____	sbasford 5/14/2013		State S&L Crime
/P2		evinz	rschluet	_____	sbasford		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		7/12/2013	7/12/2013	_____	7/12/2013		S&L
							Crime

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/P1		p2 eev 2/12/13	 3/22/13	p4 _____	sbasford 5/14/2013		State S&L Crime

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Topic:

Cosleeping while intoxicated ✓

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
1/?	tdodge	1pl eev 5/9/13	m 5/14	dm 5/14			

FE Sent For:

<END>

Dodge, Tamara

From: Hurley, Peggy
Sent: Thursday, April 25, 2013 2:34 PM
To: Rep.Kerkman
Cc: Dodge, Tamara
Subject: RE: cosleeping bill redraft request

Ok! Thanks.

From: Rep.Kerkman
Sent: Thursday, April 25, 2013 2:33 PM
To: Hurley, Peggy
Subject: RE: cosleeping bill redraft request

A p-draft is fine for now. Thank you, Peggy.

Alison Morrell

Office of State Representative Samantha Kerkman
61st Assembly District of Wisconsin
608-266-2530

From: Hurley, Peggy
Sent: Thursday, April 25, 2013 2:27 PM
To: Rep.Kerkman; Dodge, Tamara
Subject: RE: cosleeping bill redraft request

Thanks, Alison. I can enter this request today and we will get a draft to you as soon as possible. Do you want a preliminary version (-/P1) or one that can be introduced (-/1)?

Peggy

From: Rep.Kerkman
Sent: Thursday, April 25, 2013 2:20 PM
To: Dodge, Tamara; Hurley, Peggy
Subject: FW: cosleeping bill redraft request

Here is the attachment!
<< File: 11-2457P2.pdf >>

Alison Morrell

Office of State Representative Samantha Kerkman
61st Assembly District of Wisconsin
608-266-2530

From: Rep.Kerkman
Sent: Thursday, April 25, 2013 2:19 PM

To: Hurley, Peggy; Dodge, Tamara
Subject: cosleeping bill redraft request

Peggy and Tamara,
Rep. Kerkman would like to continue working on the attached bill this session that I believe you both helped us with in the past.
Would you please re-draft this P-draft bill for this legislative session??
Thank you!

Alison Morrell
Office of State Representative Samantha Kerkman
61st Assembly District of Wisconsin
608-266-2530

... *Drafting History Reproduction Request Form* ...

(Request Made By: TJD) (Date: 5 / 7 / 2013)

BOTH DRAFTS SHOULD HAVE THE SAME “REQUESTOR”



2013 LRB -2250 (For: Rep. ~~Sen.~~ Kerkman)

~~-----~~ OR -----

2013 LRB _____ (For: Rep. / Sen. _____)

 Are These “Companion Bills” ?? ... Yes No

Updated: 09/05/2012



State of Wisconsin
2011-2012 LEGISLATURE

In 5/7/13

Keep
LRB-2457/P2
PJH&TJD:kjf&jld:jf
2250/P
RMNR-eev

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- SAJJ
xref N/A
- 1 AN ACT ^{reg 1} to create 253.155 and 948.215 of the statutes; **relating to:** causing harm
- 2 to a child by cosleeping while intoxicated, providing information about
- 3 cosleeping while intoxicated, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under this bill, no person may injure or kill a child under 12 months of age by cosleeping, while the person is intoxicated, with the child. Under the bill, if the child suffers bodily harm as a consequence, the person is guilty of a Class H felony, if the child suffers great bodily harm as a consequence, the person is guilty of a Class F felony, and if the child dies as a consequence, the person is guilty of a Class D felony.

The bill requires the Child Abuse and Neglect Prevention Board (board) to purchase, prepare, or arrange with a nonprofit organization to prepare printed and audiovisual materials relating to cosleeping while intoxicated. The materials must include information regarding the risks of cosleeping while intoxicated and a discussion of ways to reduce the risks of cosleeping while intoxicated. The board must make the materials available to certain entities and may satisfy that requirement by making the materials available, at no charge, on its Internet site. Under the bill, the board or nonprofit organization is immune from any damages resulting from any good faith act or omission in preparing or distributing the materials.

Before an infant who is born in or ^{en} on route to a hospital or a maternity home is discharged, the bill requires an attending physician, attending nurse-midwife, or other trained, designated staff member ~~must~~ ^{to} provide to the parents of the infant the board's printed materials and inform the parents about, and make available to the

* ~~to view~~ ^{Set don't delete} the board's audiovisual materials. For an infant born elsewhere, the attending physician, attending nurse-midwife, or other trained, designated staff member of a hospital or maternity home, must provide to the parents the board's printed materials and inform the parents of the availability of the board's audiovisual materials within seven days of the infant's birth. Regardless ^{of} where the infant was born, at the same time the materials are provided to the parents the person who provided the materials must provide the parent with a form, prepared by the board, that includes a statement that the parent has been advised of the risks of cosleeping with an infant while that parent is intoxicated and a statement that the parent will share that information with all persons who provide care for the infant. Under the bill, a hospital, maternity home, physician, nurse-midwife, other staff member of the hospital or maternity home, or birth attendant is immune from liability for any damages resulting from any good faith act or omission in providing the board's materials and form.

The bill also requires certain individuals and entities to provide the board's materials to specified individuals. Before ^{the} obtaining a license to operate a child care center for the care and supervision of children under five years of age or entering into a contract to provide a child care program for children under five years of age, the bill requires the individual seeking the license to obtain training, which is provided or approved by the Department of Health Services (~~department~~) ^{DHS}, relating to cosleeping while intoxicated. Similarly, before an individual may be certified as a child care provider of children under five years of age and before an employee or volunteer of a licensed child care center, a certified child care provider, or a child care program may provide care and supervision for children under five years of age, that individual must receive training relating to cosleeping while intoxicated that is approved or provided by ~~the department or certifying county department or agency.~~ ^{DHS} ~~the~~

^{to} The bill requires ~~that~~ each school board ~~shall~~ ^{Set} provide or arrange with a nonprofit organization or health care provider to provide age-appropriate instruction relating to cosleeping while intoxicated for pupils ~~in one of~~ ^{Set} grades 10 to 12. A county department or Indian tribe that provides home visitation services and providers of prenatal, postpartum, and young child care coordination services must provide to recipients of those services a copy of the board's printed materials and give an oral explanation of those materials. Under the bill, ~~a department~~ ^{DHS}, a county department, a nonprofit organization, any other person that provides training to a potential child care provider, a school board, a health care provider, an Indian tribe, or a provider of prenatal, postpartum, and young child care coordination is immune from liability for any damages resulting from any good faith act or omission in connection with providing training on cosleeping while intoxicated or providing materials relating to cosleeping while intoxicated.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 253.155 of the statutes is created to read:

2 **253.155 Intoxicated cosleeping.** (1) DEFINITIONS. In this section:

3 (a) “Board” means the child abuse and neglect prevention board.

 ****NOTE: Do you think this is the appropriate entity to create informational materials on cosleeping while intoxicated? Should DHS do it instead?

4 (b) “Controlled substance” has the meaning given in s. 961.01 (4).

5 (c) “Controlled substance analog” has the meaning given in s. 961.01 (4m).

6 (d) “Cosleeping” means being asleep or unconscious while being on the same
7 bed or on another sleeping surface with an infant.

8 (e) “County department” means a county department of human services or
9 social services under s. 46.215, 46.22, or 46.23.

10 (f) “Health care provider” means any person who is licensed, registered,
11 permitted, or certified by the department of health services or the department of
12 safety and professional services to provide health care services in this state.

13 (g) “Infant” means a child from birth until 12 months of age.

14 (h) “Intoxicated” means having an alcohol concentration of 0.08 or more or
15 having substantially impaired physical or mental functioning as a result of the use
16 of alcohol, a controlled substance, or a controlled substance analog or other drug, or
17 any combination of those substances.

18 (i) “Nonprofit organization” means an organization described in section 501 (c)
19 (3) of the Internal Revenue Code that is dedicated to the prevention of injury to or
20 death of infants and the support of families affected by injury to or death of an infant.

1 (2) INFORMATIONAL MATERIALS. The board shall purchase or prepare[^] or arrange
2 with a nonprofit organization to prepare[^] printed and audiovisual materials relating
3 to cosleeping while intoxicated. The materials shall include information regarding
4 the risks of cosleeping while intoxicated and a discussion of ways to reduce the risks
5 of cosleeping while intoxicated. The materials shall be prepared in English, Spanish,
6 and other languages spoken by a significant number of state residents, as
7 determined by the board. The board shall make those printed and audiovisual
8 materials available to all hospitals, maternity homes, and nurse-midwives licensed
9 under s. 441.15[✓] that are required to provide or make available materials to parents
10 under sub. (3) (a) 1.,[✓] to the department and to all county departments and nonprofit
11 organizations that are required to provide the materials to child care providers under
12 sub. (4) (d),[✓] and to all school boards and nonprofit organizations that are permitted
13 to provide the materials to pupils in one of grades 10 to 12 under sub. (5).[✓] The board
14 shall also make those printed materials available to all county departments and
15 Indian tribes that are providing home visitation services under s. 48.983 (4) (b) 1.[✓] and
16 to all providers of prenatal, postpartum, and young child care coordination services
17 under s. 49.45 (44).[✓] The board may satisfy the requirement under this subsection[✓] by
18 making the materials available at no charge on the board's Internet site.

19 (3) INFORMATION TO PARENTS. (a) 1. Before an infant who is born at or ~~on~~^{en} route
20 to a hospital or maternity home is discharged from the hospital or maternity home,
21 the attending physician, the attending nurse-midwife, or another trained,
22 designated staff member of the hospital or maternity home shall provide to the
23 parents of the infant, without cost to those parents, a copy of the printed materials
24 purchased or prepared under sub. (2),[✓] shall inform those parents of the availability

1 of the audiovisual materials purchased or prepared under sub. (2), and shall make
2 those audiovisual materials available for those parents to view.

3 2. Within 7 days after the birth of an infant who is born elsewhere than at or
4 ~~on~~ ^{en} route to a hospital or maternity home, the attending physician, the attending
5 nurse-midwife, or a trained, designated birth attendant who attended the birth of
6 the child shall provide to the parents of the infant, without cost to those parents, a
7 copy of the printed materials purchased or prepared under sub. (2) and shall inform
8 those parents of the availability of the audiovisual materials purchased or prepared
9 under sub. (2).

10 (b) At the same time that the printed materials and explanation are provided
11 under par. (a) 1. or 2., the person who provides the printed materials and explanation
12 shall also provide the parent with a form prepared by the board in English, Spanish,
13 and other languages spoken by a significant number of state residents, as
14 determined by the board, that includes all of the following:

15 1. A statement that the parent has been advised as to the risks of cosleeping
16 while that parent is intoxicated.

17 2. A statement that the parent will share the information specified in subd. 1.
18 with all persons who provide care for the infant.

19 (c) In preparing the form under par. (b), the board may not include in the form
20 a signature line for the parent to sign or require that the parent sign the form.

21 (d) The person who provides the printed materials and explanation under par.
22 (a) 1. or 2. and the form under par. (b) shall include in the records of the hospital,
23 maternity home, or nurse-midwife relating to the infant a statement that the
24 printed materials, explanation, and form have been provided as required under pars.

25 (a) 1. ~~or~~ 2. and (b) and that the audiovisual materials have been made available as

stet

1 required under par. (a) 1. or that the parents have been informed of their availability
2 as required under par. (a) 2., whichever is applicable.

3 (4) TRAINING FOR CHILD CARE PROVIDERS. (a) Before an individual may obtain
4 a license to operate a child care center under s. 48.65 for the care and supervision of
5 children under 5 years of age or enter into a contract to provide a child care program
6 under s. 120.13 (14) for the care and supervision of children under 5 years of age, the
7 individual shall receive training relating to cosleeping while intoxicated that is
8 approved or provided by the department or that is provided by a nonprofit
9 organization arranged by the department to provide that training.

10 (b) Before an individual may be certified under s. 48.651 as a child care provider
11 of children under 5 years of age, the individual shall receive training relating to
12 cosleeping while intoxicated that is approved or provided by the certifying
13 department in a county having a population of 500,000 or more, county department,
14 or agency contracted with under s. 48.651 (2) or that is provided by a nonprofit
15 organization arranged by that department, county department, or contracted agency
16 to provide that training.

17 (c) Before an employee or volunteer of a child care center licensed under s.
18 48.65, a child care provider certified under s. 48.651, or a child care program
19 established under s. 120.13 (14) may provide care and supervision for children under
20 5 years of age, the employee or volunteer shall receive training relating to cosleeping
21 while intoxicated that is approved or provided by the department or the certifying
22 county department or agency contracted with under s. 48.651 (2) or that is provided
23 by a nonprofit organization arranged by the department or that county department
24 or contracted agency to provide that training.

1 (d) The person conducting the training shall provide to the individual receiving
2 the training, without cost to the individual, a copy of the printed materials purchased
3 or prepared under sub. (2), a presentation of the audiovisual materials purchased or
4 prepared under sub. (2), and an oral explanation of those printed and audiovisual
5 materials.

6 (e) Any training relating to cosleeping while intoxicated that an individual
7 obtains in connection with military service, as defined in s. 111.32 (12g), counts
8 toward satisfying the training requirements under par. (a), (b), or (c), if the
9 individual demonstrates to the satisfaction of the department that the training
10 obtained in that connection is substantially equivalent to the training required
11 under par. (a), (b), or (c).

12 (5) INSTRUCTION FOR PUPILS. Each school board shall provide or arrange with
13 a nonprofit organization or health care provider to provide age-appropriate
14 instruction relating to cosleeping while intoxicated for pupils in one of grades 10 to
15 12. The person providing the instruction may provide to each pupil receiving the
16 instruction a copy of the printed materials purchased or prepared under sub. (2), a
17 presentation of the audiovisual materials purchased or prepared under sub. (2), and
18 an oral explanation of those printed and audiovisual materials.

19 (6) INFORMATION TO HOME VISITATION OR CARE COORDINATION SERVICES RECIPIENTS.
20 A county department or Indian tribe that is providing home visitation services under
21 s. 48.983 (4) (b) 1. and a provider of prenatal, postpartum, and young child care
22 coordination services under s. 49.45 (44) shall provide to a recipient of those services,
23 without cost, a copy of the printed materials purchased or prepared under sub. (2)
24 and an oral explanation of those materials.

1 (7) IMMUNITY FROM LIABILITY. (a) The board, a nonprofit organization specified
2 under sub. (2), or a person from whom the board purchases the materials specified
3 in sub. (2) is immune from liability for any damages resulting from any good faith
4 act or omission in preparing and distributing, or in failing to prepare and distribute,
5 the materials specified in sub. (2).

6 (b) A hospital, maternity home, physician, nurse-midwife, other staff member
7 of a hospital or maternity home, or other birth attendant attending the birth of an
8 infant is immune from liability for any damages resulting from any good faith act or
9 omission in providing or failing to provide the printed and audiovisual materials
10 specified in sub. (3) (a) or the form specified in sub. (3) (b).

11 (c) The department, a county department, a nonprofit organization specified
12 under sub. (4) (a), (b), or (c), or any other person that provides the training under sub.
13 (4) (a), (b), or (c) and the printed and audiovisual materials and oral explanation
14 specified in sub. (4) (d) is immune from liability for any damages resulting from any
15 good faith act or omission in approving, providing, or failing to approve or provide
16 that training, those materials, and that explanation. A school board is immune from
17 liability for any damages resulting from any good faith act or omission in connection
18 with the provision of, or the failure to provide, the training under sub. (4) (a) or (c)
19 and the printed and audiovisual materials and oral explanation specified in sub. (4)
20 (d).

21 (d) A school board, nonprofit organization, or health care provider specified
22 under sub. (5) is immune from liability for any damages resulting from any good faith
23 act or omission in providing or failing to provide the instruction and the printed and
24 audiovisual materials and oral explanation specified in sub. (5).

1 (e) A county department or Indian tribe that is providing home visitation
2 services under s. 48.983 (4) (b) 1. and a provider of prenatal, postpartum, and young
3 child care coordination services under s. 49.45 (44) is immune from liability for any
4 damages resulting from any good faith act or omission in providing or failing to
5 provide the printed materials and oral explanation specified in sub. (6).

6 **SECTION 2.** 948.215 of the statutes is created to read:

7 **948.215 Intoxicated cosleeping. (1) DEFINITIONS.** In this section:

8 (a) "Cosleep" means to be asleep or unconscious while being on the same bed
9 or on another sleeping surface with an infant.

10 (b) "Infant" means a child from birth until 12 months of age.

11 (c) "Intoxicated" means having an alcohol concentration of 0.08 or more or
12 having substantially impaired physical or mental functioning as a result of the use
13 of alcohol, a controlled substance, or a controlled substance analog or other drug, or
14 any combination thereof.

15 **(2) PROHIBITION.** No person may cause harm to an infant by cosleeping, while
16 he or she is intoxicated, with the infant.

17 **(3) PENALTIES.** A person who violates sub. (2) is guilty of one of the following:

18 (a) A Class H felony if bodily harm to the infant is a consequence.

19 (b) A Class F felony if great bodily harm to the infant is a consequence.

20 (c) A Class D felony if death to the infant is a consequence.

21 (END)

Dodge, Tamara

From: Hurley, Peggy
Sent: Tuesday, July 02, 2013 12:31 PM
To: Morrell, Alison
Cc: Dodge, Tamara
Subject: RE: co-sleeping bill

Hi Alison,

I am forwarding this request to Tami Dodge. Tami has drafted all of the provisions in your bill that are in chapter 253, including the provision to which you refer. Please let me know if you would like any other changes.

Peggy

From: Morrell, Alison
Sent: Tuesday, July 02, 2013 10:51 AM
To: Hurley, Peggy
Subject: co-sleeping bill

Hi Peggy,

Rep. Kerkman would like to request a change to LRB 2250/P1. Please remove the language that would require training in sleep safety for child care providers. The provision is on page 6 of the draft.
Thank you!

Alison Morrell
Office of Rep. Samantha Kerkman
(608) 266-2530 | rep.kerkman@legis.wi.gov
Follow Rep. Kerkman on Facebook!



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2250/P1

PJH&TJD:eev:jm

In: 7/10/13

Stays

RMR

P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

regen

- 1 AN ACT *to create* 253.155 and 948.215 of the statutes; **relating to:** causing harm
2 to a child by cosleeping while intoxicated, providing information about
3 cosleeping while intoxicated, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under this bill, no person may injure or kill a child under 12 months of age by cosleeping, while the person is intoxicated, with the child. Under the bill, if the child suffers bodily harm as a consequence, the person is guilty of a Class H felony, if the child suffers great bodily harm as a consequence, the person is guilty of a Class F felony, and if the child dies as a consequence, the person is guilty of a Class D felony.

The bill requires the Child Abuse and Neglect Prevention Board (board) to purchase, prepare, or arrange with a nonprofit organization to prepare printed and audiovisual materials relating to cosleeping while intoxicated. The materials must include information regarding the risks of cosleeping while intoxicated and a discussion of ways to reduce the risks of cosleeping while intoxicated. The board must make the materials available to certain entities and may satisfy that requirement by making the materials available, at no charge, on its Internet site. Under the bill, the board or nonprofit organization is immune from any damages resulting from any good faith act or omission in preparing or distributing the materials.

Before an infant who is born in or en route to a hospital or a maternity home is discharged, the bill requires an attending physician, attending nurse-midwife, or other trained, designated staff member to provide to the parents of the infant the board's printed materials and inform the parents about, and make available to the

parents to view, the board's audiovisual materials. For an infant born elsewhere, the attending physician, attending nurse-midwife, or other trained, designated staff member of a hospital or maternity home must provide to the parents the board's printed materials and inform the parents of the availability of the board's audiovisual materials within seven days of the infant's birth. Regardless of where the infant was born, at the same time the materials are provided to the parents the person who provided the materials must provide the parent with a form, prepared by the board, that includes a statement that the parent has been advised of the risks of cosleeping with an infant while that parent is intoxicated and a statement that the parent will share that information with all persons who provide care for the infant. Under the bill, a hospital, maternity home, physician, nurse-midwife, other staff member of the hospital or maternity home, or birth attendant is immune from liability for any damages resulting from any good faith act or omission in providing the board's materials and form.

The bill also requires certain individuals and entities to provide the board's materials to specified individuals. Before obtaining a license to operate a child care center for the care and supervision of children under five years of age or entering into a contract to provide a child care program for children under five years of age, the bill requires the individual seeking the license to obtain training, which is provided or approved by the Department of Health Services (DHS), relating to cosleeping while intoxicated. Similarly, before an individual may be certified as a child care provider of children under five years of age and before an employee or volunteer of a licensed child care center, a certified child care provider, or a child care program may provide care and supervision for children under five years of age, that individual must receive training relating to cosleeping while intoxicated that is approved or provided by DHS or the certifying county department or agency. The bill requires each school board to provide or arrange with a nonprofit organization or health care provider to provide age-appropriate instruction relating to cosleeping while intoxicated for pupils in one of grades 10 to 12. A county department or Indian tribe that provides home visitation services and providers of prenatal, postpartum, and young child care coordination services must provide to recipients of those services a copy of the board's printed materials and give an oral explanation of those materials. Under the bill, DHS, a county department, a nonprofit organization, any other person that provides training to a potential child care provider a school board, a health care provider, an Indian tribe, or a provider of prenatal, postpartum, and young child care coordination is immune from liability for any damages resulting from any good faith act or omission in connection with providing training on cosleeping while intoxicated or providing materials relating to cosleeping while intoxicated.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 253.155 of the statutes is created to read:

2 **253.155 Intoxicated cosleeping.** (1) **DEFINITIONS.** In this section:

3 (a) "Board" means the child abuse and neglect prevention board.

****NOTE: Do you think this is the appropriate entity to create informational materials on cosleeping while intoxicated? Should DHS do it instead?

4 (b) "Controlled substance" has the meaning given in s. 961.01 (4).

5 (c) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

6 (d) "Cosleeping" means being asleep or unconscious while being on the same
7 bed or on another sleeping surface with an infant.

8 (e) "County department" means a county department of human services or
9 social services under s. 46.215, 46.22, or 46.23.

10 (f) "Health care provider" means any person who is licensed, registered,
11 permitted, or certified by the department of health services or the department of
12 safety and professional services to provide health care services in this state.

13 (g) "Infant" means a child from birth until 12 months of age.

14 (h) "Intoxicated" means having an alcohol concentration of 0.08 or more or
15 having substantially impaired physical or mental functioning as a result of the use
16 of alcohol, a controlled substance, or a controlled substance analog or other drug, or
17 any combination of those substances.

18 (i) "Nonprofit organization" means an organization described in section 501 (c)
19 (3) of the Internal Revenue Code that is dedicated to the prevention of injury to or
20 death of infants and the support of families affected by injury to or death of an infant.

(2) INFORMATIONAL MATERIALS. The board shall purchase or prepare, or arrange with a nonprofit organization to prepare, printed and audiovisual materials relating to cosleeping while intoxicated. The materials shall include information regarding the risks of cosleeping while intoxicated and a discussion of ways to reduce the risks of cosleeping while intoxicated. The materials shall be prepared in English, Spanish, and other languages spoken by a significant number of state residents, as determined by the board. The board shall make those printed and audiovisual materials available to all hospitals, maternity homes, and nurse-midwives licensed under s. 441.15 that are required to provide or make available materials to parents under sub. (3) (a) 1., to the department and to all county departments and nonprofit organizations that are required to provide the materials to child care providers under sub. (4) (d), and to all school boards and nonprofit organizations that are permitted to provide the materials to pupils in one of grades 10 to 12 under sub. (5). The board shall also make those printed materials available to all county departments and Indian tribes that are providing home visitation services under s. 48.983 (4) (b) 1. and to all providers of prenatal, postpartum, and young child care coordination services under s. 49.45 (44). The board may satisfy the requirement under this subsection by making the materials available at no charge on the board's Internet site.

(3) INFORMATION TO PARENTS. (a) 1. Before an infant who is born at or en route to a hospital or maternity home is discharged from the hospital or maternity home, the attending physician, the attending nurse-midwife, or another trained, designated staff member of the hospital or maternity home shall provide to the parents of the infant, without cost to those parents, a copy of the printed materials purchased or prepared under sub. (2), shall inform those parents of the availability

1 of the audiovisual materials purchased or prepared under sub. (2), and shall make
2 those audiovisual materials available for those parents to view.

3 2. Within 7 days after the birth of an infant who is born elsewhere than at or
4 en route to a hospital or maternity home, the attending physician, the attending
5 nurse-midwife, or a trained, designated birth attendant who attended the birth of
6 the child shall provide to the parents of the infant, without cost to those parents, a
7 copy of the printed materials purchased or prepared under sub. (2) and shall inform
8 those parents of the availability of the audiovisual materials purchased or prepared
9 under sub. (2).

10 (b) At the same time that the printed materials are provided under par. (a) 1.
11 or 2., the person who provides the printed materials shall also provide the parent
12 with a form prepared by the board in English, Spanish, and other languages spoken
13 by a significant number of state residents, as determined by the board, that includes
14 all of the following:

15 1. A statement that the parent has been advised as to the risks of cosleeping
16 while that parent is intoxicated.

17 2. A statement that the parent will share the information specified in subd. 1.
18 with all persons who provide care for the infant.

19 (c) In preparing the form under par. (b), the board may not include in the form
20 a signature line for the parent to sign or require that the parent sign the form.

21 (d) The person who provides the printed materials under par. (a) 1. or 2. and
22 the form under par. (b) shall include in the records of the hospital, maternity home,
23 or nurse-midwife relating to the infant a statement that the printed materials and
24 form have been provided as required under pars. (a) 1. or 2. and (b) and that the
25 audiovisual materials have been made available as required under par. (a) 1. or that

1 the parents have been informed of their availability as required under par. (a) 2.,
2 whichever is applicable.

3 **(4) TRAINING FOR CHILD CARE PROVIDERS.** (a) Before an individual may obtain
4 a license to operate a child care center under s. 48.65 for the care and supervision of
5 children under 5 years of age or enter into a contract to provide a child care program
6 under s. 120.13 (14) for the care and supervision of children under 5 years of age, the
7 individual shall receive training relating to cosleeping while intoxicated that is
8 approved or provided by the department or that is provided by a nonprofit
9 organization arranged by the department to provide that training.

10 (b) Before an individual may be certified under s. 48.651 as a child care provider
11 of children under 5 years of age, the individual shall receive training relating to
12 cosleeping while intoxicated that is approved or provided by the certifying
13 department in a county having a population of 500,000 or more, county department,
14 or agency contracted with under s. 48.651 (2) or that is provided by a nonprofit
15 organization arranged by that department, county department, or contracted agency
16 to provide that training.

17 (c) Before an employee or volunteer of a child care center licensed under s.
18 48.65, a child care provider certified under s. 48.651, or a child care program
19 established under s. 120.13 (14) may provide care and supervision for children under
20 5 years of age, the employee or volunteer shall receive training relating to cosleeping
21 while intoxicated that is approved or provided by the department or the certifying
22 county department or agency contracted with under s. 48.651 (2) or that is provided
23 by a nonprofit organization arranged by the department, county department, or
24 contracted agency to provide that training.

(d) The person conducting the training shall provide to the individual receiving the training, without cost to the individual, a copy of the printed materials purchased or prepared under sub. (2), a presentation of the audiovisual materials purchased or prepared under sub. (2), and an oral explanation of those printed and audiovisual materials.

(e) Any training relating to cosleeping while intoxicated that an individual obtains in connection with military service, as defined in s. 111.32 (12g), counts toward satisfying the training requirements under par. (a), (b), or (c), if the individual demonstrates to the satisfaction of the department that the training obtained in that connection is substantially equivalent to the training required under par. (a), (b), or (c).

(4) - (5) INSTRUCTION FOR PUPILS. Each school board shall provide or arrange with a nonprofit organization or health care provider to provide age-appropriate instruction relating to cosleeping while intoxicated for pupils in one of grades 10 to 12. The person providing the instruction may provide to each pupil receiving the instruction a copy of the printed materials purchased or prepared under sub. (2), a presentation of the audiovisual materials purchased or prepared under sub. (2), and an oral explanation of those printed and audiovisual materials.

(5) - (6) INFORMATION TO HOME VISITATION OR CARE COORDINATION SERVICES RECIPIENTS. A county department or Indian tribe that is providing home visitation services under s. 48.983 (4) (b) 1. and a provider of prenatal, postpartum, and young child care coordination services under s. 49.45 (44) shall provide to a recipient of those services, without cost, a copy of the printed materials purchased or prepared under sub. (2) and an oral explanation of those materials.

SECTION 1

(6)

1 (7) IMMUNITY FROM LIABILITY. (a) The board, a nonprofit organization specified
2 under sub. (2), or a person from whom the board purchases the materials specified
3 in sub. (2) is immune from liability for any damages resulting from any good faith
4 act or omission in preparing and distributing, or in failing to prepare and distribute,
5 the materials specified in sub. (2).

6 (b) A hospital, maternity home, physician, nurse-midwife, other staff member
7 of a hospital or maternity home, or other birth attendant attending the birth of an
8 infant is immune from liability for any damages resulting from any good faith act or
9 omission in providing or failing to provide the printed and audiovisual materials
10 specified in sub. (3) (a) or the form specified in sub. (3) (b).

11 (c) The department, a county department, a nonprofit organization specified
12 under sub. (4) (a), (b), or (c), or any other person that provides the training under sub.
13 (4) (a), (b), or (c) and the printed and audiovisual materials and oral explanation
14 specified in sub. (4) (d) is immune from liability for any damages resulting from any
15 good faith act or omission in approving, providing, or failing to approve or provide
16 that training, those materials, and that explanation. A school board is immune from
17 liability for any damages resulting from any good faith act or omission in connection
18 with the provision of, or the failure to provide, the training under sub. (4) (a) or (c)
19 and the printed and audiovisual materials and oral explanation specified in sub. (4)
20 (d).

21 (C) (d) A school board, nonprofit organization, or health care provider specified
22 under sub. (5) is immune from liability for any damages resulting from any good faith
23 act or omission in providing or failing to provide the instruction and the printed and
24 audiovisual materials and oral explanation specified in sub. (5) (4)

(d)

1

(e)

A county department or Indian tribe that is providing home visitation services under s. 48.983 (4) (b) 1. and a provider of prenatal, postpartum, and young child care coordination services under s. 49.45 (44) is immune from liability for any damages resulting from any good faith act or omission in providing or failing to provide the printed materials and oral explanation specified in sub. (6).

(5)

6

SECTION 2. 948.215 of the statutes is created to read:

7

948.215 Intoxicated cosleeping. (1) DEFINITIONS. In this section:

8

(a) "Cosleep" means to be asleep or unconscious while being on the same bed or on another sleeping surface with an infant.

10

(b) "Infant" means a child from birth until 12 months of age.

11

(c) "Intoxicated" means having an alcohol concentration of 0.08 or more or having substantially impaired physical or mental functioning as a result of the use of alcohol, a controlled substance, or a controlled substance analog or other drug, or any combination thereof.

15

(2) **PROHIBITION.** No person may cause harm to an infant by cosleeping, while he or she is intoxicated, with the infant.

17

(3) **PENALTIES.** A person who violates sub. (2) is guilty of one of the following:

18

(a) A Class H felony if bodily harm to the infant is a consequence.

19

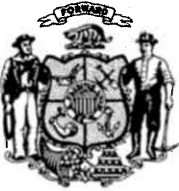
(b) A Class F felony if great bodily harm to the infant is a consequence.

20

(c) A Class D felony if death to the infant is a consequence.

21

(END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2250/P2
PJH&TJD:eev:rs

In 8/21/13 soon

RMR ↑ keep

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2013 BILL

✓ Regen

- 1 AN ACT *to create* 253.155 and 948.215 of the statutes; **relating to:** causing harm
2 to a child by cosleeping while intoxicated, providing information about
3 cosleeping while intoxicated, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under this bill, no person may injure or kill a child under 12 months of age by cosleeping, while the person is intoxicated, with the child. Under the bill, if the child suffers bodily harm as a consequence, the person is guilty of a Class H felony, if the child suffers great bodily harm as a consequence, the person is guilty of a Class F felony, and if the child dies as a consequence, the person is guilty of a Class D felony.

The bill requires the Child Abuse and Neglect Prevention Board (board) to purchase, prepare, or arrange with a nonprofit organization to prepare printed and audiovisual materials relating to cosleeping while intoxicated. The materials must include information regarding the risks of cosleeping while intoxicated and a discussion of ways to reduce the risks of cosleeping while intoxicated. The board must make the materials available to certain entities and may satisfy that requirement by making the materials available, at no charge, on its Internet site. Under the bill, the board or nonprofit organization is immune from any damages resulting from any good faith act or omission in preparing or distributing the materials.

Before an infant who is born in or en route to a hospital or a maternity home is discharged, the bill requires an attending physician, attending nurse-midwife, or other trained, designated staff member to provide to the parents of the infant the board's printed materials and inform the parents about, and make available to the

parents to view, the board's audiovisual materials. For an infant born elsewhere, the attending physician, attending nurse-midwife, or other trained, designated staff member of a hospital or maternity home must provide to the parents the board's printed materials and inform the parents of the availability of the board's audiovisual materials within seven days of the infant's birth. Regardless of where the infant was born, at the same time the materials are provided to the parents the person who provided the materials must provide the parent with a form, prepared by the board, that includes a statement that the parent has been advised of the risks of cosleeping with an infant while that parent is intoxicated and a statement that the parent will share that information with all persons who provide care for the infant. Under the bill, a hospital, maternity home, physician, nurse-midwife, other staff member of the hospital or maternity home, or birth attendant is immune from liability for any damages resulting from any good faith act or omission in providing the board's materials and form.

The bill also requires certain individuals and entities to provide the board's materials to specified individuals. The bill requires each school board to provide or arrange with a nonprofit organization or health care provider to provide age-appropriate instruction relating to cosleeping while intoxicated for pupils in one of grades 10 to 12. A county department or Indian tribe that provides home visitation services and providers of prenatal, postpartum, and young child care coordination services must provide to recipients of those services a copy of the board's printed materials and give an oral explanation of those materials. Under the bill, a county department, a nonprofit organization, a school board, a health care provider, an Indian tribe, or a provider of prenatal, postpartum, and young child care coordination is immune from liability for any damages resulting from any good faith act or omission in connection with providing training on cosleeping while intoxicated or providing materials relating to cosleeping while intoxicated.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 253.155 of the statutes is created to read:
- 2 **253.155 Intoxicated cosleeping.** (1) **DEFINITIONS.** In this section:
- 3 (a) "Board" means the child abuse and neglect prevention board.
- 4 (b) "Controlled substance" has the meaning given in s. 961.01 (4).

1 (c) “Controlled substance analog” has the meaning given in s. 961.01 (4m).

2 (d) “Cosleeping” means being asleep or unconscious while being on the same
3 bed or on another sleeping surface with an infant.

4 (e) “County department” means a county department of human services or
5 social services under s. 46.215, 46.22, or 46.23.

6 (f) “Health care provider” means any person who is licensed, registered,
7 permitted, or certified by the department of health services or the department of
8 safety and professional services to provide health care services in this state.

9 (g) “Infant” means a child from birth until 12 months of age.

10 (h) “Intoxicated” means having an alcohol concentration of 0.08 or more or
11 having substantially impaired physical or mental functioning as a result of the use
12 of alcohol, a controlled substance, or a controlled substance analog or other drug, or
13 any combination of those substances.

14 (i) “Nonprofit organization” means an organization described in section 501 (c)
15 (3) of the Internal Revenue Code that is dedicated to the prevention of injury to or
16 death of infants and the support of families affected by injury to or death of an infant.

17 (2) INFORMATIONAL MATERIALS. The board shall purchase or prepare, or arrange
18 with a nonprofit organization to prepare, printed and audiovisual materials relating
19 to cosleeping while intoxicated. The materials shall include information regarding
20 the risks of cosleeping while intoxicated and a discussion of ways to reduce the risks
21 of cosleeping while intoxicated. The materials shall be prepared in English, Spanish,
22 and other languages spoken by a significant number of state residents, as
23 determined by the board. The board shall make those printed and audiovisual
24 materials available to all hospitals, maternity homes, and nurse–midwives licensed
25 under s. 441.15 that are required to provide or make available materials to parents

SECTION 1

1 under sub. (3) (a) 1., and to all school boards and nonprofit organizations that are
2 permitted to provide the materials to pupils in one of grades 10 to 12 under sub. (4).
3 The board shall also make those printed materials available to all county
4 departments and Indian tribes that are providing home visitation services under s.
5 48.983 (4) (b) 1. and to all providers of prenatal, postpartum, and young child care
6 coordination services under s. 49.45 (44). The board may satisfy the requirement
7 under this subsection by making the materials available at no charge on the board's
8 Internet site.

9 (3) INFORMATION TO PARENTS. (a) 1. Before an infant who is born at or en route
10 to a hospital or maternity home is discharged from the hospital or maternity home,
11 the attending physician, the attending nurse-midwife, or another trained,
12 designated staff member of the hospital or maternity home shall provide to the
13 parents of the infant, without cost to those parents, a copy of the printed materials
14 purchased or prepared under sub. (2), shall inform those parents of the availability
15 of the audiovisual materials purchased or prepared under sub. (2), and shall make
16 those audiovisual materials available for those parents to view.

17 2. Within 7 days after the birth of an infant who is born elsewhere than at or
18 en route to a hospital or maternity home, the attending physician, the attending
19 nurse-midwife, or a trained, designated birth attendant who attended the birth of
20 the child shall provide to the parents of the infant, without cost to those parents, a
21 copy of the printed materials purchased or prepared under sub. (2) and shall inform
22 those parents of the availability of the audiovisual materials purchased or prepared
23 under sub. (2).

24 (b) At the same time that the printed materials are provided under par. (a) 1.
25 or 2., the person who provides the printed materials shall also provide the parent

1 with a form prepared by the board in English, Spanish, and other languages spoken
2 by a significant number of state residents, as determined by the board, that includes
3 all of the following:

4 1. A statement that the parent has been advised as to the risks of cosleeping
5 while that parent is intoxicated.

6 2. A statement that the parent will share the information specified in subd. 1.
7 with all persons who provide care for the infant.

8 (c) In preparing the form under par. (b), the board may not include in the form
9 a signature line for the parent to sign or require that the parent sign the form.

10 (d) The person who provides the printed materials under par. (a) 1. or 2. and
11 the form under par. (b) shall include in the records of the hospital, maternity home,
12 or nurse-midwife relating to the infant a statement that the printed materials and
13 form have been provided as required under pars. (a) 1. or 2. and (b) and that the
14 audiovisual materials have been made available as required under par. (a) 1. or that
15 the parents have been informed of their availability as required under par. (a) 2.,
16 whichever is applicable.

17 (4) INSTRUCTION FOR PUPILS. Each school board shall provide or arrange with
18 a nonprofit organization or health care provider to provide age-appropriate
19 instruction relating to cosleeping while intoxicated for pupils in one of grades 10 to
20 12. The person providing the instruction may provide to each pupil receiving the
21 instruction a copy of the printed materials purchased or prepared under sub. (2), a
22 presentation of the audiovisual materials purchased or prepared under sub. (2), and
23 an oral explanation of those printed and audiovisual materials.

24 (5) INFORMATION TO HOME VISITATION OR CARE COORDINATION SERVICES RECIPIENTS.
25 A county department or Indian tribe that is providing home visitation services under

SECTION 1

1 s. 48.983 (4) (b) 1. and a provider of prenatal, postpartum, and young child care
2 coordination services under s. 49.45 (44) shall provide to a recipient of those services,
3 without cost, a copy of the printed materials purchased or prepared under sub. (2)
4 and an oral explanation of those materials.

5 (6) IMMUNITY FROM LIABILITY. (a) The board, a nonprofit organization specified
6 under sub. (2), or a person from whom the board purchases the materials specified
7 in sub. (2) is immune from liability for any damages resulting from any good faith
8 act or omission in preparing and distributing, or in failing to prepare and distribute,
9 the materials specified in sub. (2).

10 (b) A hospital, maternity home, physician, nurse-midwife, other staff member
11 of a hospital or maternity home, or other birth attendant attending the birth of an
12 infant is immune from liability for any damages resulting from any good faith act or
13 omission in providing or failing to provide the printed and audiovisual materials
14 specified in sub. (3) (a) or the form specified in sub. (3) (b).

15 (c) A school board, nonprofit organization, or health care provider specified
16 under sub. (4) is immune from liability for any damages resulting from any good faith
17 act or omission in providing or failing to provide the instruction and the printed and
18 audiovisual materials and oral explanation specified in sub. (4).

19 (d) A county department or Indian tribe that is providing home visitation
20 services under s. 48.983 (4) (b) 1. and a provider of prenatal, postpartum, and young
21 child care coordination services under s. 49.45 (44) is immune from liability for any
22 damages resulting from any good faith act or omission in providing or failing to
23 provide the printed materials and oral explanation specified in sub. (5).

24 SECTION 2. 948.215 of the statutes is created to read:

25 **948.215 Intoxicated cosleeping.** (1) DEFINITIONS. In this section:

(a) “Cosleep” means to be asleep or unconscious while being on the same bed or on another sleeping surface with an infant.

(b) “Infant” means a child from birth until 12 months of age.

(c) “Intoxicated” means having an alcohol concentration of 0.08 or more or having substantially impaired physical or mental functioning as a result of the use of alcohol, a controlled substance, or a controlled substance analog or other drug, or any combination thereof.

(2) PROHIBITION. No person may cause harm to an infant by cosleeping, while he or she is intoxicated, with the infant.

(3) PENALTIES. A person who violates sub. (2) is guilty of one of the following:

(a) A Class H felony if bodily harm to the infant is a consequence.

(b) A Class F felony if great bodily harm to the infant is a consequence.

(c) A Class D felony if death to the infant is a consequence.

(END)

Barman, Mike

From: Rep.Kerkman
Sent: Wednesday, October 16, 2013 2:00 PM
To: LRB.Legal
Subject: Draft Review: LRB -2250/1 Topic: Cosleeping while intoxicated

Please Jacket LRB -2250/1 for the ASSEMBLY.